

Policy Number 2013-007
Central Procurement Office
Grant Management and Subrecipient Monitoring Policy and Procedures

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Prepared by: The Central Procurement Office of the State of Tennessee

1. Purposes.

To provide guidance to assist State Agencies to determine a counter party's status as a Contractor, Recipient, or Subrecipient.

To provide uniformity in the reporting of, and controls over, the expenditure of Grant funds in connection with the delivery of services by Recipients and Subrecipients.

To establish guidelines for Recipient and Subrecipient monitoring by Grantor State Agencies.

2. Scope.

This Policy applies to all State Agencies that award Federal or State Grants to Recipients or Subrecipients. Direct Appropriation Grants are exempt from this Policy.

3. Definitions.

For purposes of this Policy, the following terms have the meanings described below:

“Central Procurement Office” - means the State office established and empowered by Tenn. Code Ann. § 4-56-104.

“Chief Procurement Officer” - means the official as defined by Tenn. Code Ann. § 4-56-104.

“Cognizant State Agency” - means the State Agency whose funds comprise the greatest percentage of Grants received by a Grantee as determined by the Central Procurement Office.

“Contract” - means any duly authorized and legally binding written agreement or purchase order for goods or services by and between the State of Tennessee and any person or any separate entity with the independent legal capacity to contract and sue and be sued. The term “Contract” shall also have the meaning ascribed to it in 2 CFR § 200.22.

“Contractor” – means an entity that receives a Contract as defined in this Policy and in the U.S. OMB’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

“Cost Allocation Plan”- means the method of distributing to various programs the costs

which benefit more than one program and are not directly assigned as approved by the Department of Finance and Administration.

“Direct Appropriation Grant” - means a grant listed on the Department of Finance and Administration Division of Budget’s annual direct appropriation list.

“Endowment Grant”- means a limited Grant Contract that originates from a specific appropriation, effecting a Grant and conveyance of funds or property to a Grantee for a particular purpose to benefit the general public as a whole or some population of the general public. An Endowment Grant is used to transfer funds to a Grantee pursuant to an appropriation.

“Federal Grant” -means a Grant that is funded in whole or in part through federal funds.

“Grant”- means any grant of money, loans, or non-cash assistance awarded to the State or awarded by the State to a person or legal entity, for the furnishing by the State of assistance, whether financial or otherwise, to any person or entity, to support a program authorized by law. A Grant cannot be used for the primary purpose of procuring an end product, whether in the form of supplies, services, or construction, or any contract resulting from such a Grant that should otherwise be provided on a competitive basis.

“Grant Budget”- means a budget itemizing one or more specific activities or purposes under the Grant and the maximum amounts a Grantee may be reimbursed.

“Grant Contract” – means the duly authorized and legally binding written agreement by and between the State of Tennessee and Recipient or Subrecipient that contains the terms and conditions governing the parties’ duties and responsibilities with respect to a Grant. A Grant Contract does not include a Contract for the purchase of goods or services for the State of Tennessee’s own use or consumption.

“Grantee”- means the person or entity receiving a Grant as a Recipient or Subrecipient.

“Grantor State Agency”-means a State Agency that provides a Grant to a person or entity.

“Policy” - means Policy Number 2013-007 of the Central Procurement Office.

“Recipient” - means a Grantee that is a recipient of a Grant. The term Recipient does not include a Subrecipient.

“State”- means the State of Tennessee, including its departments, agencies, and entities that fall under its purview.

“State Agency” - means the departments, agencies, and entities of the State of Tennessee.

“State Grant” - means a Grant that is funded exclusively through State funds.

“Subrecipient”- means a non-federal entity that receives a Grant from a pass-through entity to carry out part of a federal program, but excludes the beneficiary of such program. A Subrecipient may also be a recipient of other Federal Grants directly from a federal awarding agency.

4. Determination of a Contractor, Recipient, or Subrecipient.

A State Agency must make case-by-case determinations whether each Grant it makes for the disbursement of federal or State program funds casts the party receiving such funds in the role of a Contractor, Recipient or Subrecipient.

When determining whether an agreement creates a Contractor, Recipient, or Subrecipient relationship, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed below may not be present in all cases, and the State Agency must use its judgment in classifying each agreement as creating either a Grantee or Contractor relationship. The U.S. OMB’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* provides guidance on how to distinguish between a Subrecipient and a Contractor in 2 C.F.R. § 200.330.

4.1 Contractor – A contract for goods and services that creates a State-Contractor relationship is typically one for the purpose of obtaining goods or services for the State Agency’s own use and consumption.

The characteristics that support the classification of an entity as a Contractor includes whether the entity:

- Provides the goods or services within its normal business operations;
- Provides similar goods or services to many different purchasers;
- Normally operates in a competitive environment;
- Provides goods or services that are ancillary to the operation of a state or federal program; and
- Is not subject to compliance requirements of the state or federal program as a result of the agreement at issue, though similar requirements may apply for other reasons.

If the non-federal entity is a Contractor, the State Agency must ensure that the procurement, receipt, and payment for goods and services complies with applicable state and federal laws, regulations, and policies that apply to the procurement of goods and services, following one of the approved methods for awarding a Contract (e.g., *CPO Policy 2013-004-Contract Management Policy and Procedures*).

If the Grantor State Agency determines that a Contractor relationship exists, they would not use a Grant Contract model or template.

4.2 Recipient – A Recipient receives a State Grant from the State for the purpose of carrying out a portion of a State Grant.

The characteristics that support the classification of an entity as a Recipient include

whether the entity:

- Determines who is eligible to receive State assistance;
- Has its performance measured in relation to whether objectives of a State program were met;
- Has responsibility for programmatic decision making;
- Is responsible for adherence to applicable State program requirements specified in the State Grant; and
- In accordance with the agreement at issue, uses the State financial assistance to carry out a program for a public purpose specified in the authorizing statute, as opposed to providing goods or services for the benefit of the State Agency.

For any entity determined to be a Recipient, the Grantor State Agency must comply with the monitoring requirements in Section 9 of this Policy.

4.3 Subrecipient – A Subrecipient receives a Federal Grant from the State for the purpose of carrying out all or a portion of a Federal Grant creating a federal assistance relationship with the Subrecipient.

The characteristics that support the classification of an entity as a Subrecipient include whether the entity:

- Determines who is eligible to receive federal assistance;
- Has its performance measured in relation to whether objectives of a federal program were met;
- Has responsibility for programmatic decision making;
- Is responsible for adherence to applicable federal program requirements specified in the Federal Grant; and
- In accordance with the agreement at issue, uses the federal financial assistance to carry out a program for a public purpose specified in the authorizing statute, as opposed to providing goods or services for the benefit of the State Agency.

For any entity determined to be a Subrecipient, the Grantor State Agency must comply with the monitoring requirements in Section 9 of this Policy.

5. Documentation of Grantee Selection Process.

The Grantor State Agency shall document the Grantee selection process. The Grantor State Agency shall provide a summary of the Grantee selection process to the Central Procurement Office.

6. Alternative Payment Methodologies.

Any Grantor State Agency seeking to use the partial, periodic, or total advance payment language contained in the Grant templates must submit a Rule Exception Request – Advance Payments, justifying why using that language would be in the best interests of the State. If a Grantor State Agency is advancing federal funds, the Grantor State Agency must ensure that the Grantee disburses those funds immediately in accordance with 2 C.F.R. § 200.305.

In accordance with 2 C.F.R. § 200.305, advance payments must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash

requirements of the Grantee (i.e., the Grantee's disbursement of allowable costs incurred) in carrying out the purpose of the approved program or project.

7. Cognizant State Agency Determination Process.

The Cognizant State Agency shall be responsible for approving the Recipient or Subrecipient's Cost Allocation Plan. Other State Agencies that grant funds to the Recipient or Subrecipient must abide by the Cost Allocation Plan approved by the Cognizant State Agency. The Cognizant State Agency is the State Agency whose funds comprise the greatest percentage of State Grant funds received by the Recipient or Subrecipient. The Central Procurement Office determines the Cognizant State Agency for each Recipient or Subrecipient. To provide for continuity of the Cognizant State Agency determination, the determination of the predominant amount of funding must be determined every five years. Once assigned, the term of responsibility shall continue until redetermined. A State Agency may submit to the Central Procurement Office a written request and justification for a Cognizant State Agency redetermination at any time during the five-year period. For example, if the State Agency no longer provides the greatest percentage of funds received by the Recipient or Subrecipient, they could request a redetermination prior to the five-year redetermination.

8. Cost Allocation Plans.

Cost Allocation Plans shall comply with the applicable accounting and financial standards, either Financial Accounting Standards Board ("FASB") standards or Governmental Accounting Standards Board ("GASB") standards. Recipients or Subrecipients shall submit any proposed Cost Allocation Plans to the Cognizant State Agency for approval. Methods used for allocating costs may differ between Recipients and Subrecipients. Once a Recipient or Subrecipient receives approval for its Cost Allocation Plan, all other Grantor State Agencies shall accept the approved Cost Allocation Plan. However, Grantor State Agencies are not required to fully fund the costs that are charged to a particular program under an approved Cost Allocation Plan if such costs are not allowable under the Grantor State Agency's agreement with the Recipient or Subrecipient or exceed the prescribed funding percentage or budgets.

8.1 Types of Costs.

8.1.1 Allowable Costs

The total cost of a Grant is the sum of the allowable direct and allocable indirect costs less any applicable credits. There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Grant or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect cost in order to avoid possible double-charging of Grants.

Allowable costs must be reasonable for the performance of the Grant and allocable. Unallowable costs include:

- Alcoholic beverages

- Bad debts
- Contingencies
- Contributions and donations
- Entertainment
- Fines and penalties
- Fundraising and investment management
- Legal services related to claims against the federal government

8.1.2 *Allocable Costs*

A cost is allocable to a particular Grant or other cost objective if the goods or services involved are chargeable or assignable to that Grant or cost objective in accordance with relative benefits received. This standard is met if the cost:

- (1) Is incurred specifically for the Grant;
- (2) Benefits both the Grant and other work of the Recipient or Subrecipient and can be distributed in proportions that may be approximated using reasonable methods; and
- (3) Is necessary to the overall operation of the Recipient or Subrecipient and is assignable in part to the Grant.

8.1.3. *Direct Costs*

Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a Grant, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Such costs include:

- Salaries of persons who provide direct services to program beneficiaries and work on only one program (e.g., aging director, transportation program director);
- Travel costs that can be specifically identified to benefit a particular program;
- Equipment purchased for use in only one program;
- Maintenance or insurance for purchased equipment;
- Supplies which are utilized in only one program;
- A contract for professional services which benefits a single program; and
- Printing which benefits a single program.

8.1.4. *Allocable Direct Costs*

Allocable direct costs are those that benefit more than one program, but do not fall under the criteria of indirect costs. Such costs also include:

- Salaries and benefits of program employees whose work benefits more than one program (e.g., nurses, eligibility workers, etc.);
- Travel costs of employees whose work benefits more than one program;
- Occupancy costs of programs;

- Telephone costs of programs;
- Supplies utilized by more than one program;
- Rental and maintenance of equipment used by more than one program;
- Audit costs; and
- Contracted services that benefit more than one program.

8.1.5. *Indirect Costs (facilities & administrative costs)*

Indirect costs are overhead or administrative costs incurred for joint purposes that cannot easily be allocated to a single use. Such costs include:

- Executive director's salary and benefits (or the administrative portion thereof if the executive director spends time on program-related activities);
- Fiscal officer's salary and benefits;
- Secretarial support of administrative employees;
- Supplies of administrative employees;
- Travel of administrative employees;
- Occupancy costs (e.g., rent and utilities) of administrative employees; and
- Postage and telephone costs of administrative employees.

The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

- (1) Administrative or clerical services are integral to a project or activity;
- (2) Individuals involved can be specifically identified with the project or activity;
- (3) Such costs are explicitly included in the budget or have the prior written approval of the federal awarding agency; and
- (4) The costs are not also recovered as indirect costs.

8.2 Cost Allocation.

8.2.1. *Allocation Methods*

Requirements for developing and submitting indirect cost rate proposals and Cost Allocation Plans are contained in Appendices III-VII of the *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards* as follows below. In the event that a federal requirement for cost rate proposals or Cost Allocation Plans conflicts with a state requirement, the federal requirement shall control.

- (1) Appendix III to Part 200—Indirect Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs): <https://www.ecfr.gov/cgi-bin/text->

[idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.iii](https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.iii)

(2) Appendix IV to Part 200—Indirect Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations; https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.iv

(3) Appendix V to Part 200—State/Local Government and Indian Tribe Central Service Cost Allocation Plans; https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.v

(4) Appendix VI to Part 200—Public Assistance Cost Allocation Plans; https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.vi

(5) Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals. https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.vii

8.2.2. *Instructions for Cost Allocation Plans*

Each Recipient and Subrecipient shall prepare a narrative describing in detail the methods used to allocate costs to the various programs. The plan should include an organizational chart and documents and schedules to support the allocation methods.

The following guidelines should be used when preparing the Cost Allocation Plan:

- The nature of the charges to be allocated will depend on the sophistication of the accounting system. The more sophisticated the system, the fewer the types of charges will be treated as allocable direct expense and included for distribution. For example, if each employee keeps a detailed time report, the payroll expenditures might be charged directly to each program, and cost allocation per se would not be involved.
- The Cost Allocation Plan must include plans for allocation of allocable direct costs as well as indirect costs. Allocable direct costs will be included with other direct costs of the program in reports to the Grantor State Agency. Allocations that are reported in separate line items on the grantor reports should involve the indirect cost pool only. An entity may wish to have more than one cost allocation pool so that certain types of costs are allocated on different bases.
- The Cognizant State Agency shall review proposed Cost Allocation Plans.

- Once the cost allocation plan has been approved by the Cognizant State Agency, all other funding state agencies must accept the approved plans. Where a contracting State Agency has reason to believe that special factors affecting its awards necessitate special consideration, the contracting State Agency should communicate this to the Cognizant State Agency.
- If a dispute arises between the Cognizant State Agency and a Grantor State Agency, the dispute shall be resolved through an appeals process headed by the Commissioner of the Department of Finance and Administration or his or her designee.

9. Grantor State Agency Monitoring Requirements.

9.1 General Requirements for all Grant Contracts

All Grantor State Agencies must:

(a) Evaluate each Recipient or Subrecipient's risk of noncompliance with Federal and State statutes, regulations, and any applicable terms and conditions, for purposes of determining the appropriate monitoring described in paragraphs (b) and (c) of this section, which may include consideration of such factors as:

- (1) The Recipient or Subrecipient's prior experience with the same or similar Grants;
- (2) The results of previous audits including whether or not the Recipient or Subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements of the U.S. OMB's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and the extent to which the same or similar Grant program has been audited as a major program;
- (3) Whether the Recipient or Subrecipient has new personnel or new or substantially changed systems; and
- (4) The extent and results of federal awarding agency monitoring (e.g., if the Recipient or Subrecipient also receives Federal Grants directly from a Federal awarding agency).

(b) Monitor the activities of the Recipient or Subrecipient as necessary to ensure that the Grant is used for authorized purposes, in compliance with Federal and State statutes, regulations, and any applicable terms and conditions; and that Grant performance goals are achieved. Grantor State Agency monitoring of Recipients and Subrecipients must include:

- (1) Receiving and reviewing financial and performance reports required by the Grantor State Agency.
- (2) Following-up and ensuring that the Recipients or Subrecipients take timely and appropriate action on all deficiencies pertaining to the Grant provided to the Recipient or Subrecipient from the Grantor State Agency detected through audits, on-site reviews, and

other means.

(3) Issuing a management decision for audit findings pertaining to the Federal Grant provided to the Subrecipient from the pass-through entity as required by 2 CFR § 200.521 Management decision.

(c) Depending upon the Grantor State Agency's assessment of risk posed by the Recipient or Subrecipient (as described in paragraph (a) of this section), the Grantor State Agency shall use these tools, when appropriate, to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing Recipients or Subrecipients with training and technical assistance on program-related matters;

(2) Performing on-site reviews of the Recipients or Subrecipients' program operations; and

(3) Arranging for agreed-upon-procedures engagements as described in 2 CFR § 200.425 Audit services.

(d) Verify that every Subrecipient is audited as required by Subpart F—Audit Requirements of the U.S. OMB's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* when it is expected that the Subrecipient's Federal Awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR § 200.501 Audit requirements.

The Grantor State Agency shall perform more frequent monitoring for Recipients or Subrecipients determined to be high-risk or if previous monitoring cycles revealed serious deficiencies. If federal Subrecipient monitoring requirements on monitoring frequency are more stringent than those under this Policy, the Grantor State Agency shall comply with the federal requirements.

The Grantor State Agency should assign risk to all Recipients or Subrecipients (e.g., in accordance with 2 C.F.R. § 200.331). At minimum, the Grantor State Agency's risk assignment process shall include the considerations identified in Section 9.2.2 below.

9.2 Annual Monitoring Plan

Each year, all State Agencies governed by this Policy shall develop and submit an annual monitoring plan for review and approval to the Central Procurement Office by October 1.

9.2.1. *Monitoring Plan Components*

The monitoring plan is a summary of the Grantor State Agency planned monitoring activities for the upcoming annual monitoring cycle and shall include:

- The total Grant Contracts population;
- The State Agency's monitoring cycle, e.g., the state or federal fiscal year;

- All Grant Contracts the State Agency will monitor during its monitoring cycle;
- A description of each State or Federal program to be monitored;
- Sample monitoring guides to be utilized for each monitored program;
- Full-time equivalents and personnel classifications for all staff dedicated to monitoring activities;
- A risk assessment for each Recipient or Subrecipient and its related contracts;
- An explanation of the criteria used to assign risk to Recipients or Subrecipients and their related contracts;
- An explanation of each finding from the previous monitoring cycle;
- An explanation of the State Agency's corrective action process for each finding; and,
- The most current list of all Subrecipients that have completed a Federal Single Audit.

9.2.2. *Determining the Population to be Monitored*

When selecting the population of Grant Contracts to be included in its annual monitoring plan, Grantor State Agencies shall consider:

- The Recipients or Subrecipients' risk of noncompliance with federal and State statutes, regulations, and any applicable terms;
- The level of programmatic or financial risk to the State; and,
- Whether the Recipient or Subrecipient has had prior findings indicating serious deficiencies.

9.2.3 *Monitoring Activities*

The Grantor State Agency's monitoring of the Recipients or Subrecipients identified in its annual monitoring plan shall include:

- Any program-specific monitoring requirements;
- All applicable requirements of Title VI of the *Civil Rights Act of 1964*;
- Reviewing any reports required by 2 C.F.R. §§ 200.328 – 200.329;
- Reviewing financial and programmatic reports required by the Grant Contract; and
- Ensuring that the Recipient or Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Grant that the Grantor State Agency detected and communicated to the Recipient or Subrecipient.

To the extent possible, there should be a separation of duties between monitoring staff and program operations staff to allow for independence and objectivity. Possible conflicts of interest should be disclosed in Grantor State Agency monitoring plans.

9.2.4 *Changes to Monitoring Plans*

A Grantor State Agency shall submit any proposed changes to an approved monitoring plan and an explanation for each proposed change to the Central Procurement Office for review and approval. The Grantor State Agency shall document any approved changes to an existing plan.

9.2.5 Monitoring Reports and Corrective Action Plans

Grantor State Agencies shall issue reports summarizing any findings or observations identified during monitoring activities within thirty (30) business days of completing all field work. The Grantor State Agency shall retain a copy of the monitoring report and distribute copies to the Grantee and the Comptroller of the Treasury, Division of State Audit.

Upon receipt of a monitoring report with findings, the Recipient or Subrecipient shall prepare a corrective action plan detailing the actions to be taken to correct such findings. The corrective action plan shall include:

- The name of the contact person responsible for the corrective action plan;
- The corrective actions to be taken; and
- The anticipated completion date.

The corrective action plan shall be submitted to the Grantor State Agency for review and approval. The Grantor State Agency shall have thirty (30) business days to approve, reject, or request additional information about the Recipients or Subrecipients' plan. If a corrective action plan is not approved, the Grantor State Agency and the Recipient or Subrecipient shall work together to develop solutions for addressing the monitoring report's findings.

10. Debarment and Suspension.

The State requires all contracts to contain a provision where a contracting party may be considered debarred or suspended from doing business with the State. The State hereby incorporates the Debarment and Suspension provision from Tenn. Comp. R. & Regs. 0690-03-01-.17 (2)(t) as mandatory language in all affected Grant Contracts.

11. Compliance Reviews.

State Agency records obtained under this Policy are subject to evaluation by the Chief Procurement Officer, the Comptroller of the Treasury, or their duly appointed representatives.

Related Statutes, Rules and Policies

Tenn. Code Ann. §§ 4-56-101, *et seq.*

Tenn. Code Ann. §§ 12-3-101, *et seq.*

Tenn. Code Ann. §§ 12-4-101, *et seq.*

Tenn. Comp. R. & Regs. 0690-03-01-.17 (2)(t)